

OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION UNIT
1997 ANNUAL REPORT
ALAN G. LANCE, ATTORNEY GENERAL
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MISSION STATEMENT

The Attorney General's Consumer Protection Unit enforces Idaho's Consumer Protection, Telephone Solicitation, Pay-Per-Telephone Call, Charitable Solicitation, and Antitrust Acts. These Acts protect consumers, businesses and the marketplace from unfair or deceptive acts and practices. The Consumer Protection Unit seeks to fulfill this charge efficiently and economically through education, mediation, and enforcement.

The Attorney General reports to the public annually on the Consumer Protection Unit's activities.

HISTORY

The Consumer Protection Unit was established in 1987. The Legislature has assigned to the Attorney General enforcement duties in the areas of consumer protection, telephone and charitable solicitations, 900 number telephone calls, and antitrust. The Consumer Protection Unit consists of a staff of nine people. Fees and penalties collected from enforcement actions have paid for all positions added since 1990.

APPLICABLE LAWS

The Consumer Protection Unit enforces, and operates pursuant to, the following statutes and rules:

- the Idaho Consumer Protection Act and the Idaho Consumer Protection Rules
- the Idaho Telephone Solicitation Act,
- the Idaho Pay-Per-Telephone Call Act and the Idaho Telephone Solicitation and Pay-Per-Telephone Call Services Rules,
- the Idaho Charitable Solicitations Act, and
- the Idaho Antitrust Act.¹

The Consumer Protection Unit also enforces provisions of other statutes, including those dealing with chain and pyramid distribution schemes. In addition, the Consumer Protection Unit provides information regarding laws such as Idaho's Lemon Law Act, Idaho's Landlord/Tenant and Idaho's Mobile Home Park Acts.

¹ These Idaho statutes and rules are codified, respectively as follows: Consumer Protection Act, Title 48, Chapter 6, Idaho Code; the Consumer Protection Rules, IDAPA 04.02.01000 et seq.; the Telephone Solicitation Act, Title 48, Chapter 10, Idaho Code; the Pay-Per-Telephone Call Act, Title 48, Chapter 11, Idaho Code; the Telephone Solicitation and Pay-Per-Telephone Call Services Rules, IDAPA 04.02.02000 et seq.; the Charitable Solicitations Act, Title 48, Chapter 12, Idaho Code; and the Antitrust Act, at Title 48, Chapter 1, Idaho Code.

STAFFING

The Consumer Protection Unit is staffed by two deputy attorneys general, two investigators/legal assistants, three consumer specialists, one receptionist and one legal secretary.

1997 ACTIVITIES

This year the Consumer Protection Unit obtained significant consumer restitution as a result of enforcement actions. Consumer Protection Unit staff educated thousands of people about consumer issues.

In 1997, the Consumer Protection Unit recovered over \$1.9 million for Idaho residents -- a 44 percent increase over 1996. At the same time, the Consumer Protection Unit assisted more Idahoans than ever before, as complaints and inquiries jumped 21 percent. During the year, Idahoans made 5,451 complaints, inquiries and requests for written information and reported more than \$920,000 in consumer losses. A statistical fact sheet concerning the Consumer Protection Unit is attached to the end of this report. It includes the Attorney General's Top Ten List of Consumer Complaints and Inquiries.

ENFORCEMENT

SEARS. The Consumer Protection Unit obtained a consent judgment with Sears, Roebuck & Company. The Idaho agreement is part of a settlement of lawsuits all 50 states brought against Sears. The suits alleged that Sears engaged in illegal debt collection practices. As a result of the settlement, Sears will pay more than \$970,000 in restitution to 1,319 Idaho consumers. Sears will also forgive Idahoans approximately \$797,000 in improperly obtained debts.

The states' investigations confirmed that, for at least ten years, Sears obtained so-called "reaffirmation agreements" from customers in bankruptcy. A reaffirmation agreement is a contract by which a Chapter 7 debtor agrees to pay a debt that would ordinarily be discharged in bankruptcy. Such agreements must be both voluntary and approved by the bankruptcy court. The states' investigation confirmed that Sears, on a massive scale, failed to seek bankruptcy court approval, thus avoiding the court's review.

The settlement requires Sears to pay restitution to consumers impacted between January 1992 and the present. The settlement also requires Sears to change its collection policies, including those regarding reaffirmation agreements. Sears also paid the Consumer Protection Unit \$267,000 for civil penalties, costs and attorney fees.

ANTITRUST. The Consumer Protection Unit settled two cases with large agricultural chemical manufacturers. Attorney General Lance joined other state attorneys general in settling claims that American Cyanamid and Zeneca, in conjunction with some of their dealers, fixed resale prices on farm chemicals.

Both Zeneca and American Cyanamid agreed to stop the alleged price-fixing practices. In addition, the manufacturers paid the Consumer Protection Unit \$275,000. Attorney General Lance used a portion of the settlement to establish \$15,000 scholarship endowments at each of the State's seven institutions of higher education. Scholarships will be available to freshman who have participated in 4-H or FFA.

The Consumer Protection Unit, joined by 29 other states, continued its litigation of a lawsuit alleging a conspiracy among three major contact lens manufacturers, a professional association, and several individual optometrists. The defendants include Vistakon, Bausch & Lomb, Inc., and the American Optometric Association. The suit alleges a conspiracy to make it difficult for consumers to get the prescriptions needed to obtain replaceable soft contact lenses. It also alleges a conspiracy to eliminate the supply of replaceable soft contact lenses to mail order companies, pharmacies, buying clubs, retail stores and other channels of distribution. The suit claims the conspiracies cause excessively high contact lens prices.

SLAMMING. The Consumer Protection Unit settled two “slamming” cases with WinStar Gateway Network, Inc., and EqualNet, Inc. Both are long-distance telephone service re-sellers. “Slamming” refers to illegally switching a consumer’s long distance telephone service to another company without the customer’s knowledge or consent.

The settlements resolve allegations that these companies misrepresented themselves and switched Idaho consumers’ long-distance services without the consumers’ approval. The companies agreed to offer restitution to eligible consumers, and to pay, collectively, \$35,000 to the Consumer Protection Unit. The companies also agreed that there would be no future misrepresentations related to the sale of long distance services. Finally, they agreed they would verify a consumer’s consent before switching long distance service in the future..

CHARITABLE SOLICITATIONS. The Consumer Protection Unit obtained consent judgments with American Deputy Sheriffs’ Association, Inc. (“ADSA”), Community Network, Inc. (“CNI”), Civic Development Group, Inc. (“CDG”), and principals David Keezer and Scott Pasch. The Consumer Protection Unit began an investigation following numerous consumer inquiries regarding telephone solicitations for contributions. Idaho residents reported being told that various sheriffs’ offices had already received benefits from the association and that donations would directly benefit local sheriffs’ departments. The Consumer Protection Unit contacted more than a thousand Idaho consumers. Hundreds responded, indicating they were deceived by the solicitations.

Attorney General Lance filed a lawsuit against ADSA and CNI. Further investigation linked CDG, Pasch, and Keezer to the activities alleged in the Attorney General’s complaint. In the resulting settlement, all defendants agreed to: make full refunds to the more than 350 Idaho consumers; abide by Idaho law in future fundraising campaigns; electronically monitor a percentage of calls made into Idaho; reimburse the Attorney General’s costs for the enforcement action; and pay civil penalties. Consumer restitution, civil penalties and fees total \$25,000.

Many consumers contributed their refunds to the Idaho Peace Officers Memorial. Attorney General Lance presented a check for \$5,300 on their behalf. The Idaho Peace Officers Memorial is a planned permanent monument to law enforcement officers who died in the line of duty.

TOBACCO LITIGATION. On June 6, 1997, the Consumer Protection Unit filed suit against the tobacco industry. The suit alleged consumer protection, antitrust, and public nuisance violations. Idaho was the 34th state to sue the industry. Congress is now considering a nationwide settlement negotiated by the Attorneys General. If adopted by Congress, the settlement will significantly alter how the industry markets tobacco products. It will require the industry to make payments to Idaho in perpetuity. During the first twenty-five years, payments to Idaho will total approximately \$446 million. The proposed settlement sets strict goals for reducing tobacco use by minors and provides severe penalties against the industry for failure to meet the goals.

EDUCATION

The Attorney General believes that consumer education is essential. “My Consumer Protection Unit will win its battles in the courtroom, but Idaho will win the war on consumer fraud with informed citizens protecting themselves from loss and harm,” Attorney General Lance has stated. Accordingly, the Consumer Protection Unit conducts an aggressive consumer education program.

The Consumer Protection Unit responded quickly to assist flood victims in several Idaho counties during 1997. The Consumer Protection Unit prepared and disseminated information to assist Idahoans in protecting themselves against scams that often follow natural disasters. In cooperation with the Federal Emergency Management Agency, the Consumer Protection Unit sent letters containing consumer information to all citizens who reported damage from the flooding. The Consumer Protection Unit also placed “consumer alert” radio announcements, and supplied informational brochures to local prosecuting attorneys and sheriffs.

Consumer Protection Unit personnel made 69 presentations to 3,251 people throughout the state. Consumer Protection Unit staff talked with thousands of Idaho residents during the Western Idaho, Canyon County and Twin Falls County Fairs.

The Consumer Protection Unit prepared and distributed thousands of folders with consumer information targeted toward a variety of groups, including senior citizens and high school seniors.

In cooperation with the Idaho State Broadcasters Association, the Consumer Protection Unit placed public service announcements on radio and television from January through March.

All of the Consumer Protection Unit's written materials are available through the Attorney General's internet homepage. Tipsheets cover a variety of topics including automobile repairs, mail fraud, Idaho's Lemon Law, construction fraud, and charitable donations. Consumers can also read Idaho's consumer protection laws and learn how to file a consumer complaint.

The Attorney General's internet address is: <http://www.state.id.us/ag/homepage.htm>.

Citizens can also obtain information on consumer issues by calling 3334-2424 (Boise) or toll-free 800-432-3545.

The Consumer Protection Unit offers all educational efforts at no cost to taxpayers. Money from civil penalties, fees and reimbursed costs is deposited into the consumer protection account. Funds from this account pay for all educational activities.

LEGISLATION

During 1997, the Consumer Protection Unit proposed legislation prohibiting unsolicited advertising by fax machine. The Consumer Protection Unit also proposed legislation to stop harassment of consumers regarding adult telephone calls. Many consumers reported being harassed by bill collectors to pay for calls the consumer did not make. The legislation provides that consumers are not required to pay for such calls unless they sign a contract or provide a credit card number.

The Legislature passed both bills and the Governor signed them into law.



CONSUMER PROTECTION -- BY THE NUMBERS

The following chart illustrates some of the Consumer Protection Unit's activities and accomplishments:

Activity	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Complains/ Inquires*	1428	1243	1614	2525	3367	3130	3228	3627	4497	5451
Dollars Claimed Lost	\$416,599	\$735,731	\$680,172	\$489,467	\$831,437	\$1,042,885	\$1,268,283	\$960,191	\$528,945	\$920,285
Consumer Restitution Recovered	\$14,054	\$22,201	\$130,469	\$263,435	\$394,376	\$986,571	\$1,757,469	\$532,657	\$1,363,375	\$1,918,676
Civil Penalties, Fees/Costs recovered	\$0	\$ 0	\$ 500	\$56,500	\$127,845	\$243,571	\$163,621	\$134,000	\$164,300	\$537,768
Enforcement Actions **	4	6	9	62	66	100	78	96	63	50
Telemarketers Registered	N/A	N/A	N/A	N/A	18	41	66	57	61	46

* Includes all written complaints and inquiries filed by consumers, as well as consumers' requests for written information.

** Includes Assurances of Voluntary Compliance, Judgments, and Orders Compelling Response and Granting Injunctive Relief obtained.

Overall, consumer complaints and inquiries were up 21 percent over 1996's figures. The top ten complaint and inquiry categories in 1997 are:

Telephone solicitations: 530

Multi-level marketing: 408

Motor Vehicles: 357

Mail Order Sales: 329

Travel: 293

Construction: 257

Utility bills: 208

Finance (Lending Institutions): 112

Charitable Solicitations: 149

Retail Store Sales: 149

NOTES: In 1997, the Consumer Protection Unit recovered more than ten dollars in restitution for each taxpayer dollar appropriated. For the past seven years the Consumer Protection Unit has recovered more money for Idaho residents than the Legislature has appropriated from its general fund for Consumer Protection Unit operations. Consumer Protection Unit salaries and benefits are expected to cost taxpayers approximately \$180,523 for the 1998 fiscal year. Another \$296,500 is budgeted from the consumer protection account for consumer education, the salaries of five staff members, and litigation and investigative expenses. The consumer protection account is comprised of moneys obtained through Consumer Protection Unit enforcement actions.